



The Keller Law Firm

June 3, 2020

Via E-mail to:

Clerk of Court
U.S. District Court
Middle District of Pennsylvania
228 Walnut Street
P.O. Box 983
Harrisburg, PA 17108

20 MC 325

**FILED
SCRANTON**

JUN 03 2020

PER KTC
DEPUTY CLERK

Re: Request for DMCA Subpoena to Google, LLC. (YouTube)

Dear Clerk of the Court:

Petitioner Liberty Hangout LLC ("LHO"), through its undersigned counsel of record, hereby respectfully requests that the Clerk of this Court issue a Subpoena pursuant to 17 U.S.C. § 512(h) to service provider Google, LLC to identify alleged infringers of LHO's copyrighted material.

LHO is the owner of numerous copyrighted audiovisual works. In the course of protecting its works, LHO has determined that infringing copies of these works, posted at the direction of individual users and without authorization from LHO, appear on Google LLC's website "YouTube.com." Such infringements have been ongoing and LHO has issued DMCA notifications to Google LLC's DMCA Agent. All notifications have met the requirements of 17 U.S.C. § 512(c)(3)(A) by setting forth, inter alia, a representative list of the copyrighted works that have been infringed and the identification and location on Google LLC's website of the infringing material. LHO now seeks to obtain a DMCA Subpoena to learn the identity of the individuals who are posting the infringing content.

The DMCA Subpoena is directed to Google LLC, the service provider of YouTube accounts to which the infringing parties posted content at the URLs:

URL	Username
https://www.youtube.com/watch?v=PSN-IXXahFY	Sam Collins
https://www.youtube.com/watch?v=FuHAIUSgamA	Sam Collins
https://www.youtube.com/watch?v=zKW3tA0UwsU	Roly
https://www.youtube.com/watch?v=ox7g_AZnPKQ	Jammidodger
https://www.youtube.com/watch?v=1S-x2PvyoJI	Kristina Maione
https://www.youtube.com/watch?v=qt--4XJ-7As	ImAllexx

https://www.youtube.com/watch?v=NKIHOLQawrk	American Freedom World Peace
https://www.youtube.com/watch?v=ABDjs1QSAKs	The Young Turks
https://www.youtube.com/watch?v=YOeKGmQTpbM	Philip DeFranco

In order to fully comply with 17 U.S.C. 512(h) DMCA Subpoena requirements, the following items are submitted concurrently with this letter request:

- Copy of notification sent to Google, LLC's DMCA Agent (attached as Exhibit A to the Declaration of LHO's Director, Justin Moldow, and Exhibit B to the DMCA Subpoena);
- DMCA Subpoena (proposed); and,
- Sworn Declaration of Justin Moldow, Director of LHO, confirming that the purpose of the DMCA Subpoena is to obtain the identity of the alleged infringers for the single purpose of protecting LHO's rights under Title 17 of the United States Code.

With all conditions for issuance of the DMCA Subpoena having been met, LHO therefore petitions the Clerk to issue and sign, in accordance with 17 U.S.C. § 512(h)(4), the proposed DMCA Subpoena, and return it to the undersigned requester for delivery to the service provider, Cloudflare, Inc.

Regards,

s/ Kelley C. Keller

Kelley C. Keller, Esq..

KK:jt

Attachments:

- Proposed DMCA Subpoena
- Sworn Declaration
- Notification of Claimed Infringements (attached to Subpoena and Declaration)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
AT HARRISBURG

In Re:

DMCA SUBPOENA TO GOOGLE, LLC

Service Provider.

Case No.:

DECLARATION IN SUPPORT OF
REQUEST FOR DMCA SUBPOENA TO
GOOGLE, LLC (YOUTUBE).

DECLARATION IN SUPPORT OF
REQUEST FOR DMCA SUBPOENA
TO GOOGLE LLC. - 1

THE KELLER LAW FIRM, LLC
20 South 36th Street, Suite 203
Camp, PA 17011
(717) 386-5035

1 I, JUSTIN MOLDOW, hereby declare as follows:

2 1. I am a Director of Liberty Hangout LLC (hereinafter, "LHO") and am authorized
3 to act on its behalf. I have personal knowledge of the facts contained herein and, if called upon to
4 do so, could and would testify competently thereto.

5 2. I submit this declaration in support of LHO's request for issuance of a Subpoena
6 by the Clerk of this Court, pursuant to the Digital Millennium Copyright Act ("DMCA"), 17
7 U.S.C. § 512(h) to Google, LLC ("Google"), relating to the posting of LHO's copyrighted
8 material on the domain YouTube.com webpages hosted or served by Google, LLC.

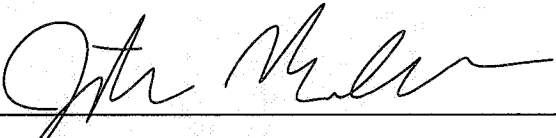
9 3. I have personal knowledge of the copyrights owned by LHO and the ongoing
10 infringements of those copyrights that occur on the internet. I also have personal knowledge of
11 the countless instances that LHO's copyrighted works have been posted without LHO
12 authorization to youtube.com.

13 4. On May 12, 2020, authorized agent for LHO Jason Tucker issued and served a
14 copyright infringement notification on Google, LLC's DMCA Agent relating to posts on
15 youtube.com. Pursuant to Section 512(c)(3)(A), the notification was properly signed by LHO's
16 agent, identified the copyrighted material being infringed, set forth a listing of the 9 URLs
17 containing posts of infringing material, confirmed that such use of LHO's copyrighted works
18 was not authorized by LHO, and gave contact information such that the DMCA Agent could
19 reach LHO's Agent with questions. A true and correct copy of the May 12, 2020 notification is
20 attached as Exhibit A.

21 5. The purpose of the DMCA Subpoena is to obtain information sufficient to
22 identify alleged infringers who, without authorization from LHO, posted material to the web
23 page youtube.com, which infringed copyrights held by LHO. The information received as a
24 result of the Subpoena will only be used by LHO to protect its rights under Title 17 of the United
25 States Code.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 DATED this 15 day of May 2020, at Munroe Falls, Ohio.

4
5 
6 _____
7 JUSTIN MOLDOW

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Pennsylvania

In re DMCA Subpoena to Google, LLC (YouTube)

Plaintiff

v.

Defendant

Civil Action No.

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Google, LLC

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See description in Exhibit A, attached thereto

Place: Specialized Legal Services
112 Bryant Street, #120
San Francisco, CA 94103

Date and Time:

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____

Liberty Hangout, LLC, who issues or requests this subpoena, are:

Kelley Keller, The Keller Law Firm, LLC., 20 South 36th Street, Suite 203, Camp, PA 17011; 717-326-5035

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Exhibit A

**Copy of Notification Issued Pursuant to
17 U.S.C. § 512(c)(3) to
Registered DMCA Agent for
Service Provider Google, LLC (YouTube).**

Jason Tucker

From: Jason Tucker [REDACTED]@stance.com>
Sent: Tuesday, May 12, 2020 11:25 AM
To: copyright@youtube.com
Subject: DMCA Takedown Notice for Copyright Infringement – Liberty Hangout LLC

Copyright Operations
YouTube, LLC
901 Cherry Ave
San Bruno, CA 94066
Phone: 650-214-3010
Via Email: copyright@youtube.com

RE: DMCA Takedown Notice for Copyright Infringement – Liberty Hangout llc

Dear Copyright Agent,

I, Jason Tucker, hereby declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge and belief the foregoing is true and correct and I have the authority to act on behalf of the owner of the copyrights involved.

I have a good faith belief that the use of materials identified below is not authorized by the Owner and therefore infringes on its rights pursuant to Section 512 (c) of the U.S. Copyright Law. Pursuant to this notification, you should immediately take steps to locate and remove and/or disable access to the content that is on your system.

If you are a service provider, you may otherwise be liable for copyright infringement if, upon obtaining knowledge or awareness of infringing material being stored upon your network, you do not act expeditiously to remove, or disable access to, the material.

My contact information is as follows:

Liberty Hangout LLC
c/o: Battleship Stance, Inc.
Address: [REDACTED] Phoenix, AZ 85016 USA
Email: [REDACTED]@stance.com

Links to Infringing Material that I request be REMOVED:

1. Link: <https://www.youtube.com/watch?v=PSN-IXXahFY>
Username: Sam Collins
2. Link: <https://www.youtube.com/watch?v=FuHAIUSgamA>
Username: Sam Collins
3. Link: <https://www.youtube.com/watch?v=zKW3tA0UwsU>
Username: Roly
4. Link: https://www.youtube.com/watch?v=ox7g_AZnPKQ
Username: Jammidodger
5. Link: <https://www.youtube.com/watch?v=1S-x2PvyoJI>
Username: Kristina Maione

6. Link: <https://www.youtube.com/watch?v=qt--4XJ-7As>
Username: ImAllexx
7. Link: <https://www.youtube.com/watch?v=NKIHOLQawrk>
Username: American Freedom World Peace
8. Link: <https://www.youtube.com/watch?v=ABDjs1QSAKs>
Username: The Young Turks
9. Link: <https://www.youtube.com/watch?v=YOeKGmQTpbM>
Username: Philip DeFranco

LOCATION OF ORIGINAL WORKS owned by and registered to Liberty Hangout LLC:

http://libertyhangout.org/videos/	
https://youtu.be/b8ibcE7TY_Q	US Copyright Registration: PA0002239152
https://youtu.be/f9IaOYdSU1M	US Copyright Registration: PA0002239154
https://youtu.be/tO7tqRA3gE	US Copyright Registration: PA0002239148

This correspondence and all of its contents is without prejudice to Liberty Hangout LLC or any of their affiliated company's rights and remedies, all of which are expressly reserved.

Sincerely,

s/Jason Tucker

Jason Tucker
Agent for Liberty Hangout LLC

Jason Tucker

SKYPE: [REDACTED]

Twitter: [REDACTED]

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